IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 1136 OF 2003

IN

SUIT NO. 858 OF 2003

Sharad D. Shah ...Plaintiffs.
vs.
Ketan R. Shah and ors. ...Defendants.

NOTICE OF MOTION NO. 1137 OF 2003
IN
SUIT NO. 746 OF 2003

Nehal Sharad Shah ...Plaintiffs.
vs.
Ketan R. Shah and ors. ...Defendants.

NOTICE OF MOTION NO. 1138 OF 2003
IN
SUIT NO.1014 OF 2003

Ramnikbhai R. Shah ...Plaintiffs.
vs.
Ketan R. Shah and ors. ...Defendants.

NOTICE OF MOTION NO. 1139 OF 2003
IN
SUIT NO. 745 OF 2003

Dilipbhai D. Shah ...Plaintiffs.
vs.
Ketan R. Shah and ors. ...Defendants.

Anil Mishra, advocate

for the plaintiffs.

O.P. Pandey i/by. K.R. Tiwari

for defendant no.1.

D.H. Mehta i/by. M.G. Gawde

for defendant no.2.

CORAM: S.U. KAMDAR, J.

DATE : 14TH FEBRUARY, 2006.

P.C. :

1. The facts in the present case are identical to the Notice of Motion No. 1135 of 2003 and 1140 of 2003. Both the said motions were disposed off by my order dated 3.10.2005. The facts being identical for the same reasons recorded in the order dated 3.10.2005 I pass the same order in all the present four motions.

2. Accordingly Court Receiver is appointed

inrespect of the entire suit property being Plot bearing CTS No. 539/C-I(pt) of Village Chakala at Parsiwada, Andheri Sahar Road, Near Gold Spot Factory, Taluka-Andheri.

3. Against the said order dated 3.10.2005 an appeal was preferred being Appeal no. 9335 of 2005. The said appeal is admitted and pending. However in the Notice of Motion taken out in the said appeal the Division Bench has by an order dated 28.1.2005 refused to grant stay of the said order dated 3.10.2005 impugned therein. Even today I put to Mr. Mehta, learned counsel for defendant no.2 that whether the defendants no.2 is willing to provide the earmarked area of one flat each in each of the motion. However he has expressed his inability to do so. In the light of the aforesaid the same order as that of 3.10.2005 is passed herein.

4. An additional contention raised by Mr. Mehta is that the said land being redeveloped under the

Slum Rehabilitation Scheme the plaintiff should not be granted any relief. I do not find any substance in the said contention because even in a case of Slum Rehabilitation the flat purchaser can be accommodated in sale component building. All the motions are disposed off accordingly.

5. In the light of the fact that Court Receiver is already in possession the Court Receiver need not take possession of the same property again.

sd/-

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